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Request for a subvention to the Extraordinary Chambers in the Courts of Cambodia

Report of the Secretary-General

Summary

In his previous report on the Khmer Rouge trials (A/70/403), the Secretary-General identified important progress made in the judicial work across all sets of proceedings before the Extraordinary Chambers in the Courts of Cambodia. The Secretary-General also highlighted the continuing financial challenges facing both the international and national components of the Extraordinary Chambers and requested the approval of a subvention of up to $25.15 million for the period from 1 January to 31 December 2016.

By its resolution 70/248 A, the General Assembly authorized the Secretary-General, as an exceptional measure, to enter into commitments in an amount not to exceed $12.1 million to supplement the voluntary financial resources of the international component of the Extraordinary Chambers for the period from 1 January to 31 December 2016. The Assembly requested the Secretary-General to report on the use of the commitment authority in the context of the next report.

In the present report, the Secretary-General provides details on the judicial progress achieved by the Extraordinary Chambers since his previous report, provides a projection regarding the anticipated use of the approved commitment authority for 2016, provides information on the revised budget of the Extraordinary Chambers for 2017 and seeks the Assembly's approval of an appropriation for a subvention for the international component of the Extraordinary Chambers in the amount of $16.2 million for 2017.

* A/71/150.

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I. Introduction

1. Since their establishment, and as detailed in the previous reports of the Secretary-General on the Khmer Rouge trials (A/58/617, A/59/432 and Add.1, A/60/565, A/62/304, A/67/380, A/68/532, A/69/536 and A/70/403), the Extraordinary Chambers in the Courts of Cambodia have achieved substantial progress towards fulfilling their mandate. Since the previous report of the Secretary-General, all organs of the Extraordinary Chambers have continued to be fully engaged as appeal, trial and judicial investigations are proceeding.

2. Case 001, against Kaing Guek Eav, alias "Duch", was the first case tried before the Chambers. His conviction became final, as varied, by the appeal decision of the Supreme Court Chamber of 3 February 2012. He was sentenced to life imprisonment. Case 002 has been severed into multiple trials. In the first trial, case 002/01, the Trial Chamber pronounced its judgment on 7 August 2014, convicting two surviving senior leaders of the Khmer Rouge regime, Nuon Chea and Khieu Samphan, of crimes against humanity and sentencing them to life imprisonment. Both accused have appealed the convictions. Parties have completed all submissions in the appeal proceedings before the Supreme Court Chamber, and the Chamber has retired to deliberate on the appeal judgment, which is anticipated to be rendered in the third quarter of 2016.

3. A second trial, case 002/02, contains additional charges against Nuon Chea and Khieu Samphan related to genocide, forced marriages and treatment of Buddhists, as well as alleged crimes against humanity and war crimes committed at four security centres and three worksites and in a group of work cooperatives located in one administrative district. The trial commenced with opening statements on 17 October 2014, and evidentiary hearings commenced on 8 January 2015. The presentation of evidence is currently projected to continue into the fourth quarter of 2016, with closing statements in the first quarter of 2017. The trial judgment is anticipated in the fourth quarter of 2017.

4. In cases 003 and 004, judicial investigations are ongoing and have made significant progress. The cases involve allegations against four charged persons. In case 003, Meas Muth was charged in March 2015, and additional charges were laid against him in December 2015. In case 004, Im Chaem and Ao An were formally charged in March 2015. Additional charges against Ao An, including genocide, were announced in March 2016. Yim Tith, the last suspect in case 004, was charged in December 2015. In the same month, the co-investigating judges notified the parties that they had concluded the judicial investigations against Im Chaem. Subsequently, the charges against her were severed into a new case file 004/01 to ensure her right to determination of the charges brought against her without undue delay. It is currently projected in respect of cases 003 and 004 that the judicial investigations will conclude by the fourth quarter of 2016 and first quarter of 2017, respectively, to be followed by decisions by the co-investigating judges on whether any of those cases will be sent for trial, by the second and third quarters of 2017, respectively. The closing order in respect of charges against Im Chaem in case 004/01 is expected in the first quarter of 2017.

5. Following the request of the General Assembly in its resolution 68/247 B for a completion strategy for the Extraordinary Chambers, the latter prepared a

completion plan[1] that highlights a number of remaining procedural milestones and projects the timelines required for judicial completion of the current caseload. The plan is updated on a quarterly basis. Given that no decision has yet been made as to whether any charged person in case 003 and/or case 004 will be indicted and sent for trial, it is difficult to project an overall timeline for the Court's judicial work. Nevertheless, in accordance with the completion plan, it is projected that any appeal proceedings in case 002/02 would run into the second half of 2019. The timelines for any additional trial(s) in cases 003 and 004 can be projected only when the closing orders indicting or acquitting the charged persons in those cases are issued.

6. The Extraordinary Chambers continue to face considerable financial challenges. It has proven difficult to attract the requisite voluntary funding to fully cover the costs of the international component in 2016. The authorization by the General Assembly of a subvention to supplement the voluntary financial resources of the international component has been essential to the work of the Court, in particular in enabling the international component to extend staff contracts until the end of 2016. The anticipated level of voluntary contributions to the international component will require the use of about $10.9 million of the commitment authority by the end of 2016. The financial contributions from the Government of Cambodia, coupled with pledges from the international community, have stabilized the overall funding situation with respect to the national component. However, a shortfall in the amount of $585,200 remains for 2016. Given the structure of the Court, if the operation of either the national or the international component is jeopardized, the overall work of the Court is severely impeded.

II. Progress made in the case files

A. Case 001: Kaing Guek Eav, alias "Duch"

7. Kaing Guek Eav continues to serve the remainder of his life sentence at Kandal provincial prison.

B. Case 002: Nuon Chea, Ieng Sary, Khieu Samphan, Ieng Thirith

8. On 15 September 2010, the Extraordinary Chambers' co-investigating judges issued a closing order indicting the former Chair of the Democratic Kampuchea People's National Assembly and Deputy Secretary of the Communist Party of Kampuchea, Nuon Chea, the former Deputy Prime Minister for Foreign Affairs of Democratic Kampuchea, Ieng Sary, the former Head of State of Democratic Kampuchea, Khieu Samphan, and the former Minister of Social Affairs of Democratic Kampuchea, Ieng Thirith, for crimes against humanity, grave breaches of the Geneva Conventions relating to the protection of victims of international armed conflicts and genocide against the Cham and Vietnamese ethnic groups. Ieng Thirith had been found unfit to stand trial on medical grounds and remained under judicial supervision until her death in August 2015 and subsequent termination of the proceedings. The proceedings against Ieng Sary were also terminated upon his death in March 2013.

[1] Revision nine, 30 June 2016. Available from www.eccc.gov.kh/en/about-eccc/finances.

9. The charges in case 002 have been severed into two separate cases, styled as cases 002/01 and 002/02, each with a separate trial and judgment. Case 002/01 focused on alleged crimes against humanity relating to the forced movement of the population from Phnom Penh (phase one) and later from the regions (phase two) and the alleged execution of former Khmer Republic soldiers at Tuol Po Chrey. It also considered the structure of Democratic Kampuchea, the history of the Communist Party of Kampuchea, the organizational structure of Democratic Kampuchea and the roles of the accused in relation to the policies of the Democratic Kampuchea regime relevant to all charges. Case 002/02 encompasses charges relating to genocide, forced marriage and rape, internal purges, treatment of Buddhists and targeting of former Khmer Republic officials, in addition to alleged crimes against humanity and war crimes committed at four security centres (including S-21), three worksites and a number of adjacent work cooperatives. By order of the Supreme Court Chamber of 29 July 2014, further charges not encompassed in the two cases were provisionally stayed pending appropriate disposal by the Trial Chamber.

10. On 7 August 2014, the Trial Chamber delivered its judgment in the historic proceedings in case 002/01. It found that Nuon Chea and Khieu Samphan had, through their participation in a joint criminal enterprise, committed the crimes against humanity of murder, political persecution and other inhumane acts (comprising forced transfers and attacks against human dignity) during movement of population (phase one), political persecution and other inhumane acts (comprising forced transfers and attacks against human dignity) during movement of population (phase two) and murder and extermination through executions of Khmer Republic officials at Tuol Po Chrey. They were also found to have planned, instigated, aided and abetted the aforementioned crimes during movement of population (phases one and two) and at Tuol Po Chrey. In addition, Nuon Chea was found to have ordered the crimes and to have been responsible as a superior for all crimes committed in the course of movement of population and at Tuol Po Chrey. The Trial Chamber sentenced both Nuon Chea and Khieu Samphan to life imprisonment.

11. In late 2014, appeals were filed against the trial judgment by the co-prosecutors, as well as by both Nuon Chea and Khieu Samphan, who advanced a total of 223 and 148 grounds of appeal, respectively. Appeal proceedings in respect of the trial judgment are now well advanced and the deadline for the filing of further submissions has passed. The Supreme Court Chamber held initial appeal hearings in July 2015. The final appeal hearings scheduled from 17 to 19 November 2015 were adjourned due to lack of proper legal representation for Nuon Chea, resulting from his international co-lawyer not attending the appeal hearing and his national co-lawyer leaving the courtroom in spite of the Chamber's order to remain present. In order to prevent any future interruption of the appeal hearings, the Chamber ordered the appointment of a national standby counsel for Nuon Chea. Final appeal hearings were held from 16 to 18 February 2016. Delivery of the Supreme Court Chamber's judgment on the appeals is expected in the third quarter of 2016.

12. The trial in case 002/02 opened on 17 October 2014, with presentation of evidentiary hearings commencing on 8 January 2015. As at 30 June 2016, the Trial Chamber had completed the hearing of evidence related to three trial segments: the Tram Kok Cooperatives and the related Kraing Ta Chan Security Centre; three worksites; and the treatment of the Cham and Vietnamese ethnic groups and former officials of the Khmer Republic. For the first time since its establishment, the

Extraordinary Chambers heard evidence concerning allegations of genocide during the trial segment related to treatment of the Cham and Vietnamese.

13. On 2 March 2016, the Trial Chamber commenced the fourth trial segment, addressing allegations related to three security centres and internal purges. During this segment, prisoner Kaing Guek Eav, alias "Duch", the first person convicted by the Extraordinary Chambers in case 001, was called to testify during the course of 12 hearing days. The Chamber has completed evidence hearings related to Phnom Kraol and Au Kanseng Security Centres, and it is currently hearing evidence related to S-21 and internal purges. As at 30 June 2016, the Trial Chamber had heard the testimonies of 130 individuals (86 witnesses, 41 civil parties and 3 experts) over the course of 204 hearing days, as well as assessed a broad range of documentary evidence. The presentation of evidence is currently projected to continue into the fourth quarter of 2016 with closing statements in the first quarter of 2017. The trial judgment is expected in the fourth quarter of 2017.

C. Cases 003 and 004

14. On 7 September 2009, the international co-prosecutor filed two introductory submissions (subsequently supplemented by further submissions) with the co-investigating judges alleging the commission of further crimes falling under the jurisdiction of the Extraordinary Chambers by five additional suspects. The crimes under investigation are genocide, crimes against humanity, grave breaches of the Geneva Conventions relating to the protection of victims of international armed conflicts and violations of the 1956 Penal Code of Cambodia. Of the five suspects, four have been charged. One suspect in case 003 died in 2014. Since the commencement of judicial investigations in these two cases, 235 field missions and 1,270 witness interviews have been completed. During the period 1 July 2015 to 30 June 2016, 69 field missions and 263 witness interviews were conducted.

15. Pursuant to submissions filed by the international co-prosecutor, the co-investigating judges are seized of 10 crime scenarios in case 003 and 55 crime scenarios in case 004. Under the internal rules, the co-investigating judges are legally obligated to investigate all crime scenarios of which they have been seized, although they have the authority, at the time of notification of the conclusion of a judicial investigation, to reduce the scope of a case, as long as its remaining scope is representative of the introductory submission and any supplementary submissions.

16. On 3 March 2015, the then international co-investigating judge charged Meas Muth and Im Chaem in absentia in cases 003 and 004, respectively. Meas Muth was charged with alleged crimes against humanity, war crimes and violations of the 1956 Penal Code of Cambodia, while Im Chaem was charged with alleged crimes against humanity and violations of the 1956 Penal Code of Cambodia. Charging was undertaken in absentia, as the charged persons had ignored formal summonses and ensuing arrest warrants had not been executed. On 27 March 2015, the then international co-investigating judge charged Ao An in person in case 004 with alleged crimes against humanity and violations of the 1956 Penal Code of Cambodia. Following the charging, the charged persons have full access to the case file and can participate in the judicial investigations through their co-lawyers. On 2 June 2015, the co-investigating judges issued a decision dismissing the criminal allegations against Sou Met, until then a suspect in case 003, on account of his death in 2014.

17. On 9 December 2015, the last remaining suspect in case 004, Yim Tith, appeared before the international co-investigating judge. He was charged with genocide, crimes against humanity, war crimes and violations of the 1956 Penal Code of Cambodia. On 14 December 2015, Meas Muth appeared voluntarily before the international co-investigating judge, where he was notified of additional charges, including genocide. A number of charges from the previous decision to charge him in absentia were rescinded, as was the outstanding arrest warrant. On 18 December 2015, the national and international co-investigating judges notified the parties that they considered the judicial investigations against Im Chaem concluded. Noting that Im Chaem has the right to determination of the charges brought against her without undue delay, on 5 February 2016 the co-investigating judges ordered the severance of the proceedings against Im Chaem from case 004 and into a new case file 004/01. This will allow bringing the proceedings against Im Chaem to a timely conclusion while continuing the investigations in the remainder of case 004. A request for annulment of an investigative action was recently filed in the case against Im Chaem. This motion is likely to extend the time required to complete the investigative proceedings. On 14 March 2016, the international co-investigating judge expanded the charges against Ao An to include additional crimes against humanity and genocide. Whereas the initial charges from 27 March 2015 were limited to three alleged crime sites, the new additional charges are linked to more than 12 different geographic locations.

18. The current projection in case 003 is that the judicial investigations against Meas Muth may be completed by the fourth quarter of 2016, with a closing order containing either a dismissal or an indictment to follow by the end of the second quarter of 2017. Given the different stages of the judicial investigations against the charged persons in 004, it is likely that case 004 may be further severed as the investigations near completion. It is currently projected that the investigations against Ao An may conclude by the fourth quarter of 2016, with a closing order containing either a dismissal or an indictment to be issued by the end of the second quarter of 2017. The investigations against Yim Tith may conclude by the end of the first quarter of 2017, with a closing order to follow by the end of the third quarter of 2017. Depending on the time it will take the Pre-Trial Chamber to decide on the recently filed annulment motion in case 004/01 against Im Chaem, the closing order in that case is anticipated to be issued by the end of the first quarter of 2017.

III. Completion plan and road map: projected timelines

19. Following the request of the General Assembly for a completion strategy with a clear road map, the Extraordinary Chambers prepared a completion plan that details the remaining work to be completed in the proceedings of which they are currently seized.[1] It is clarified that the current proceedings represent the entire caseload of the Chambers, as confirmed by the international co-prosecutor. Assessing each case individually, the plan sets out a road map in which the remaining procedural milestones are highlighted and the timelines required for the judicial completion of the current caseload are projected. The plan was first prepared in March 2014 and subsequently revised on a quarterly basis to reflect the most accurate perspective as the proceedings evolved. It also sets out a series of measures that may assist expeditious completion.

20. On the basis of current projections, the earliest anticipated completion of judicial proceedings in case 002 will be in the fourth quarter of 2017, with the delivery of a trial judgment in case 002/02, absent any appeal. The timing of the final conclusion of judicial proceedings in case 002/02 will depend on the filing of any appeal, and the current projections estimate the delivery of any appeal judgment in that case to be in 2019.

21. The phases of judicial investigation in cases 003 and 004 are projected to conclude in 2017. Should either or both of those cases be sent for trial, in whole or in part, projections for trial timelines would then need to be assessed, taking into account the scope of the proceedings.

22. Following the milestones reached in 2016, it is projected that in 2017 the Trial Chamber will conclude the closing statements and issue a trial judgment in case 002/02. It is projected that further milestones will be reached in 2017 in respect of cases 003 and 004, namely, (a) the issuance of closing orders in the cases against Meas Muth, Im Chaem, Ao An and Yim Tith, with a decision of the co-investigating judges to send the case to trial, in whole or in part, or to dismiss the proceedings; and (b) Pre-Trial Chamber's disposal of any appeals against the closing orders in the cases relating to Meas Muth, Ao An and Im Chaem with a decision of the Pre-Trial Chamber to either confirm or amend the closing order, or to dismiss the case. It is currently projected that the Pre-Trial Chamber's decision in respect of Yim Tith would be delivered in the first quarter of 2018.

23. It is projected that a further milestone will be reached in 2018, namely, the filing of notices of appeals and appeals against the trial chamber judgment in case 002/02, if any. The delivery of the judgment on any such appeal would be expected to follow in 2019 and will bring that case to a close.

IV. Current financial position and fundraising efforts

24. Previous reports of the Secretary-General have highlighted to Member States the financial challenges faced by the Chambers, which have continued in 2015 and 2016. In previous years, the impacts of these challenges have included recruitment freezes and the uncertainty of staff working on month-to-month contracts, with the potential for distraction from the discharge of core functions. National component staff had gone without contracts and salaries for prolonged periods, resulting, inter alia, in a walkout by 100 staff in September 2013. Given the structure of the Extraordinary Chambers wherein national component and international component staff work side by side, the overall work of the court was severely impeded by this action.

25. Pursuant to the Agreement between the United Nations and the Royal Government of Cambodia, the United Nations is responsible for defraying the costs required to support the international component of the Chambers, while the Government of Cambodia is responsible for defraying the costs of the national component, including salaries of national personnel, utilities and service expenses of the Chambers. In its resolution 70/248, the General Assembly encouraged all Member States to provide voluntary support for both the international and national components of the Extraordinary Chambers, and requested the Secretary-General to continue his intensive efforts to obtain additional voluntary contributions, including

by broadening the donor base, for funding the future activities of the Extraordinary Chambers.

26. **International component**. Historically, funding for the international component of the Chambers has been raised from a limited number of Governments each year, most of which participate in the principal donors group. In 2008, the Secretary-General designated a Special Expert on the United Nations Assistance to the Khmer Rouge Trials to assist in fundraising for the Extraordinary Chambers. Past fundraising activities, including two pledging conferences (in 2010 and 2013), a written appeal from the Secretary-General to all Member States, bilateral requests by senior United Nations officials to donor countries and a written appeal from the then chair of the principal donors group to permanent missions of Member States in New York in 2015, were unsuccessful in generating significant new sources of funding.

27. **National component**. In the first years of operation, the national component was funded largely by voluntary contributions covering 80 per cent of the budget, with the remainder paid by the Government of Cambodia, which also provides in-kind contributions of buildings, facilities and local services. The contribution of the Government of Cambodia has significantly increased in past years and since 2015 covers over 60 per cent of the national component's requirements. The national component had suffered from serious financial constraints, leading to intensive efforts by the Extraordinary Chambers, together with senior Cambodian government officials, as well as Cambodian ambassadors in foreign capitals, to jointly seek support from key Governments for the national component. These efforts resulted in raising sufficient funds for the national component in 2015.

28. **Intensive fundraising efforts in 2016**. In January 2016, the ambassadors and representatives from the principal donors group agreed that the Extraordinary Chambers' finances were in a critical state and on the imperative to refresh donor sentiment, expand the donor base and take a more coordinated approach to démarches. The Secretariat and the principal donors group developed a fundraising strategy for 2016 with the assistance of the Special Expert, which focuses on efforts to broaden the donor base through reaching out to potential new donor Governments. As part of this strategy, the United Nations and the Government of Cambodia sent jointly signed letters to seven potential new donors seeking their financial support. The principal donors group sent individual letters to the same group of donors strongly supporting the requests, followed by joint démarches by the members of the group in the capitals of the potential donors. While these fundraising efforts resulted in renewed expression of support for the work of the Chambers, it did not result in a significant improvement in the Court's financial situation, which remains dire. The principal donors group has continued to meet regularly throughout 2016 to further discuss the strategy and progress of the fundraising activities.

29. With regard to the traditional donors, the principal donors encouraged exploring the possibility of long-term, sustainable funding. This has resulted so far in two donors confirming multi-year pledges of combined pledges of $1.2 million in 2017, $1.3 million in 2018 and $0.8 million in 2019.

30. The Secretariat also continued to intensify fundraising efforts through follow-up communications with diplomatic missions on a regular basis. From January to July 2016, the Special Expert continued to engage in intensive consultations with

the principal donors group, a large number of missions to the United Nations, and the entire diplomatic membership of the Friends of the Extraordinary Chambers in the Courts of Cambodia during consultations in Phnom Penh, as well as with the Government of Cambodia, to fund the international and national components through 2016.

Current financial position and use of commitment authority

31. The General Assembly approved a commitment authority of $15.54 million for the international component for 2014; these funds, however, were never drawn upon as voluntary funding eventually covered in full the international component's obligations during 2014. The Assembly again approved commitment authorities for 2015 and 2016 amounting to $12.1 million for each year for the international component of the Chambers, ensuring that the salaries and expenses of personnel can be met on time and without any disruption to the work of the Chambers.

32. By the end of 2015, $10.68 million in expenditures had been incurred against the authorized commitment authority of $12.1 million. The commitment authority had, during the course of the year, also served as a line of credit and had been fully drawn upon in October 2015. The payment of three outstanding pledges totalling $5.06 million received in the last quarter of 2015 reduced the final use of the commitment authority from $12.1 million to $10.68 million at the end of 2015. The unused amount of $1.42 million of regular budget funds provided to the Chambers in 2015 has been refunded to the United Nations.

33. The commitment authority has functioned as a bridging financing mechanism, permitting the United Nations to extend the contracts for international officials and staff at the Chambers, and as a source of funds should voluntary funding fall short. Taking into account the availability of voluntary contributions and the commitment authority, the United Nations extended staff contracts in three steps in 2016, covering one-month, nine-month and two-month periods.

34. The group of interested States approved a budget for 2016 amounting to $25.7 million for the international component and $6.6 million for the national component. As at 31 July 2016, voluntary contributions of $7.65 million had been received for the international component for 2016, which, together with the drawdown of the commitment authority in an amount of $6.1 million, covered the expenditures for the first seven months of 2016. To meet the operational cash flow requirements of the international component in the latter five months of 2016, further draw down on the commitment authority is expected. The Secretariat actively implements cost-saving measures that are expected to reduce the expenditure level by the end of 2016 to $24.1 million with the remaining shortfall covered by the commitment authority. As at 31 July 2016, voluntary contributions and pledges of $6.0 million had been received for the national component for 2016. The shortfall of $585,200 had not been secured at the time of writing the present report.

V. Funding requirements of the Extraordinary Chambers for 2017

35. The group of interested States has approved a budget of $20.1 million for 2017 for the international component and $6.4 million for the national component. The international component and the national component are funded separately, with the Secretariat being responsible for the receipt and management of voluntary funds for the international component and the Government of Cambodia being responsible for funding the national component, including through contributions from the international community for this purpose. The approved budget for the biennium 2016-2017 defines all of the resources for both components, including staff resources, required to operate the Chambers efficiently throughout the biennium. The budget is based on the projection in September 2015 of judicial activities as reflected in revision six of the completion plan. In the most recent revision (revision nine) of the completion plan, the timeline for the judicial activities was revised in June 2016, requiring an extension for the conclusion of the investigations in cases 003 and 004. The extension of the timeline for the judicial activities will affect the budgetary requirements for continued investigations and related judicial activities in 2017. At the time of writing the present report, the Extraordinary Chambers had reviewed the impact of the most recent completion plan and prepared a proposed revised budget for 2016-2017, as indicated in tables 1 and 2 below, which reflects the revised workplan for 2017 and incorporates the extended timelines for judicial activities. The revised budget remains subject to review by the principal donors group and the steering committee on the United Nations Assistance to the Khmer Rouge Trials in New York and approval by the group of interested States.

Table 1
Financial resources for the international component of the Extraordinary Chambers
(Thousands of United States dollars)

			Resource requirements for 2016-2017		
Component	*2014 expenditure*	*2015 expenditure*	*2016*	*2017*	*Total*
A. Judicial Offices and Chambers	8 455.4	9 186.5	8 643.1	8 652.6	17 295.7
B. Defence and Victims Support Section	2 938.3	4 149.1	4 571.1	4 662.2	9 233.3
C. Office of Administration	10 334.4	10 702.9	10 842.9	10 946.5	21 789.4
Total	**21 728.1**	**24 038.5**	**24 057.1**	**24 261.3**	**48 318.4**

Table 2
Post resources for the international component of the Extraordinary Chambers

Category	*2014*	*2015*	*2016*	*2017*
Professional and above				
Judges (D-2)	12	12	12	12
D-1	1	1	1	1
P-5	6	6	7	7
P-4	18	19	18	15

Category	*2014*	*2015*	*2016*	*2017*
P-3	38	38	38	39
P-2	5	7	6	7
Subtotal	**80**	**83**	**82**	**81**
Other levels				
Field Service	25	25	23	22
National Professional Officer	9	9	10	11
General Service	45	45	45	43
Subtotal	**79**	**79**	**78**	**76**
Total	**159**	**162**	**160**	**157**

36. In 2017, resource requirements in the amount of $24,261,300 would provide for the continuation of 157 posts (12 D-2, 1 D-1, 7 P-5, 15 P-4, 39 P-3, 7 P-2, 22 Field Service, 11 National Professional Officer, 43 General Service) and non-post items such as non-staff compensation, consultants and experts, travel of staff, travel of witnesses, contractual services, general operating expenses, supplies and furniture and equipment. This reflects a reduction of three posts from the staffing level in 2016.

37. For 2017, the total funding requirements for both the national and international components are estimated at $30.63 million. Of that amount, $24.26 million is for the international component and $6.37 million is for the national component. On the international side, at the time of writing the present report the Secretariat had received pledges in the amount of $2.7 million for 2017, with anticipated pledges amounting to $5.3 million for 2017 based on indications from the traditional donors. Based on the pattern of contributions in the period 2014-2016, it is expected that resources will be pledged incrementally and in varied amounts, with insufficient fund balances available at any given time to ensure reasonable duration of staff contracts. The operational reserve of $4.2 million that had accumulated since the Chambers' inception was fully depleted in 2012 to meet staff payroll costs and remains at zero. With continuing shortfalls in voluntary contributions, the Secretariat has been unable to reinstate any reserve, and thus has no funding mechanism to address unforeseen operational contingencies.

38. To address the above-mentioned situation, the Secretary-General is proposing a subvention of $16.2 million for the international component for the period from 1 January 2017 to 31 December 2017. The level of the subvention request takes into account the proposed revised budget for 2017 and the fact that the financial situation of the Chambers has not improved. The level of the subvention request reflects the financial resources necessary to secure the operation of the Chambers, with the assumption that the proposed revised budget for 2017 would be approved by the group of interested States. Should the revised budget be approved at a different level, updated information on any adjustments to the budget or the consequent adjustment to the proposed level of subvention will be provided to the General Assembly. The proposed subvention will allow the continuation of the operation of the Chambers, pending the receipt of additional voluntary contributions necessary for the operation throughout the year. The Secretary-General proposes

that the subvention be available to be drawn upon, should there be insufficient extrabudgetary funds on hand to meet the international component's salary and operational costs. Cognizant of the difficulties of securing funds through voluntary contributions and the need to ensure the expeditious completion of the remaining cases at the same time, the Secretary-General will continue his intensive fundraising efforts.

39. Despite a significant improvement in the situation of the national component for 2016, the timing of contributions has created serious difficulties and overall funding remains uncertain in 2017 and beyond. While the Government of Cambodia is responsible under the Agreement with the United Nations to raise funding for the entire national component, the provisions in 2015 of $4.1 million and in 2016 of $4.15 million directly by the Government is a significant increase compared with previous years. The Government has reiterated its strong commitment to the Extraordinary Chambers' ongoing process and to addressing its funding challenges. The United Nations will also continue to support the Government of Cambodia in seeking to obtain additional voluntary contributions from the international community for the national component. As has been seen in previous years, any funding shortfall on either side is likely to seriously affect the activities of the Extraordinary Chambers as a whole. The current estimated requirements for the national component for 2017 amounts to $6.37 million.

VI. Conclusions

40. **The Secretary-General welcomes the important progress made by the Extraordinary Chambers across all sets of current proceedings in the year since his last report. In this context, and bearing in mind the essential mandate of the Chambers, the Secretary-General notes the ongoing importance that all judicial proceedings before the Chambers are conducted in a manner that conforms with the terms of the Agreement establishing the Extraordinary Chambers.**

41. **Following the judgments in cases 001 and 002/01, the landmark trial in case 002/02 has made substantial progress during 2016, completing three trial segments. The fourth trial segment currently under way addresses allegations related to three security centres and internal purges. Appeal hearings have concluded in respect of the multiple appeals against the trial judgment in case 002/01 and the Supreme Court Chamber's judgment on appeals is anticipated in the third quarter of 2016. Judicial investigations in cases 003 and 004 have reached key milestones with the charging of the four surviving suspects.**

42. **The Secretary-General commends the judicial officials and staff of both components of the Extraordinary Chambers for their sustained commitment and dedication in fulfilling the Chambers' challenging but essential mandate.**

43. **The Secretary-General welcomes the provision of the majority of the budget of the national component by the Government of Cambodia in 2015 and 2016 and acknowledges the commitment to the success of the Chambers shown by the Government. At the same time, however, the Secretary-General is concerned that the Extraordinary Chambers face persisting financial challenges, and that the situation has worsened in this regard over the past two**

years. It remains clear that the current funding mechanisms of the Extraordinary Chambers are not sustainable over the long term.

44. It remains critical for the international community to ensure that the Extraordinary Chambers have the necessary financial means to ensure full accountability, within the scope of their mandate, for the crimes perpetrated during the former Khmer Rouge regime. A financial failure of the Chambers would constitute a renewed tragedy in the quest for justice of the people of Cambodia, who have waited four decades for these efforts to reach belated fruition, and would constitute a serious setback to the international community's fight against impunity.

VII. Recommendations

45. The Secretary-General requests the General Assembly:

(a) To take note of the present report and the use of the commitment authority approved for 2016;

(b) To take note of the resource requirements of the Extraordinary Chambers for the period 1 January to 31 December 2017, estimated at $24,261,300 for the international component of the Extraordinary Chambers in the Courts of Cambodia to continue to fulfil its judicial mandate;

(c) To appropriate an amount of $16,240,500 by way of subvention for 2017 for the international component of the Extraordinary Chambers in the Courts of Cambodia under the programme budget for the biennium 2016-2017.

Annex

Financial status of the Extraordinary Chambers in the Courts of Cambodia

International component: United Nations Assistance to the Khmer Rouge Trials

Table A.1
Financial status of the international component as at 31 December 2015
(Thousands of United States dollars)

A. Income	
Contributions received from 2005 to 2015	185 240.2
Interest earned from 2005 to 2015 and other adjustments	4 805.5
Subtotal	**190 045.7**
B. Expenditure[a]	(200 724.1)
Fund balance (shortfall)[b]	**(10 678.4)**

[a] Figures include a grant of $3,255,000 in 2013 and loans of $780,000 in 2014 to the national component to cover salary costs. These costs are also reflected in the national component tables.

[b] The amount of shortfall was covered by the regular budget subvention for 2015.

Table A.2
Financial status of the international component for 2016 and projection for 2017
(Thousands of United States dollars)

A. Income	
Cash balance brought forward as at 1 January 2016	–
Contributions received for 2016	7 653.8
Outstanding pledges for 2016[a]	2 476.5
Anticipated pledges for 2016	3 000.0
Subtotal	**13 130.3**
B. Estimated expenditure for 2016	**(24 057.1)**
C. Estimated shortfall for 2016	**(10 926.8)**
D. Revised budget for 2017[b]	**(24 261.3)**
E. Outstanding pledges for 2017[c]	2 700.1
F. Anticipated pledges for 2017	5 320.7
G. Estimated shortfall for 2017	**(16 240.5)**

(Footnotes on following page)

(Footnotes to Table A.2)

[f] European Union (€1,500,000 revalued as at 1 August 2016) and Sweden (SKr7,000,000 revalued as at 1 August 2016).

[b] 2017 budget figures are subject to change pending review and approval of the revised budget by the group of interested States.

[c] Sweden (SKr7,000,000 revalued as at 1 August 2016), Germany (€350,000 revalued as at 1 August 2016) and United States of America ($1,500,000).

Indicative resource requirements for the United Nations Assistance to the Khmer Rouge Trials

Table A.3.1

Requirements by component and funding availability, international component

(Thousands of United States dollars)

Component	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (actual)*	*1 January-31 December 2016 (budget)*	*1 January-31 December 2016 (estimated expenditure)*	*1 January-31 December 2017 (revised budget)*[a]
1. Judicial Office	8 455.4	9 186.5	9 401.9	8 643.1	8 652.6
2. Defence and victims support	2 938.3	4 149.1	4 522.1	4 571.1	4 662.2
3. Office of Administration	10 334.4	10 702.9	11 773.7	10 842.9	10 946.5
Total expenditure	**21 728.1**	**24 038.5**	**25 697.7**	**24 057.1**	**24 261.3**
Balance brought forward	655.7	(4 287.1)			
Pledges and contributions	16 785.3	17 647.2	13 130.3	13 130.3	8 020.8
Total income	**17 441.0**	**13 360.1**	**13 130.3**	**13 130.3**	**8 020.8**
Surplus/(shortfall)	**(4 287.1)**	**(10 678.4)**	**(12 567.4)**	**(10 926.8)**	**(16 240.5)**

[a] 2017 budget figures are subject to change pending review and approval of the revised budget by the group of interested States.

Table A.3.2

Requirements by object of expenditure and funding availability, international component

(Thousands of United States dollars)

Object of expenditure	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (actual)*	*1 January-31 December 2016 (budget)*	*1 January-31 December 2016 (estimated expenditure)*	*1 January-31 December 2017 (revised budget)*[a]
Posts	13 921.3	14 712.0	15 280.1	14 226.6	14 700.4
Non-staff compensation	2 135.1	2 159.1	2 355.0	2 168.0	2 402.1
Other staff costs	–	–	–	213.2	321.5
Consultants and experts	3 197.9	4 804.0	5 568.8	5 779.3	4 782.8
Travel of staff	135.6	190.1	186.9	91.1	53.1
Travel of witnesses	33.3	75.8	78.2	66.3	64.5
Contractual services[b]	1 442.3	1 333.2	1 331.4	741.0	1 041.9

Object of expenditure	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (actual)*	*1 January-31 December 2016 (budget)*	*1 January-31 December 2016 (estimated expenditure)*	*1 January-31 December 2017 (revised budget)*[a]
General operating expenses	433.2	448.3	488.6	420.6	484.6
Supplies	248.2	153.6	270.9	224.8	189.2
Furniture and equipment	181.2	162.4	137.8	126.2	221.2
Subtotal	**21 728.1**	**24 038.5**	**25 697.7**	**24 057.1**	**24 261.3**
Pledges and contributions	16 785.3	17 647.2	13 130.3	13 130.3	8 020.8
Balance brought forward	655.7	(4 287.1)	–	–	–
Total	**17 441.0**	**13 360.1**	**13 130.3**	**13 130.3**	**8 020.8**
Surplus/(shortfall)	**(4 287.1)**	**(10 678.4)**	**(12 567.4)**	**(10 926.8)**	**(16 240.5)**

[a] Figures include 2014 loans to the national component for payment of local salaries.
[b] 2017 budget figures are subject to change pending review and approval of the revised budget by the group of interested States.

National component: Cambodia

Table A.4
Financial status of the national component as at 31 December 2015
(Thousands of United States dollars)

A. Income	
Contributions received from 2005 to 2015	62 237.9
Subtotal	**62 237.9**
B. Expenditure	(62 152.9)
Fund balance	**85.0**

Table A.5
Financial status of the national component for 2016 and the projection for 2017
(Thousands of United States dollars)

A. Income	
Cash balance brought forward as at 1 January 2016	85.0
Contributions received for 2016	4 252.4
Outstanding pledges for 2016[a]	1 630.1
Subtotal	**5 967.5**
B. Estimated expenditure for 2016	**(6 552.7)**
C. Estimated shortfall for 2016	**(585.2)**

D. Revised budget for 2017	(6 371.8)
E. Contributions and outstanding pledges for 2017	–
F. Estimated shortfall for 2017	**(6 371.8)**

[a] €1,400,000 from the European Union earmarked for national staff salaries (inclusive of programme support costs) and $90,123 from Germany earmarked for the Victims Support Section.

Indicative resource requirements for the national component

Table A.6.1
Requirements by component and funding availability
(Thousands of United States dollars)

Component	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (actual)*	*1 January-31 December 2016 (budget)*	*1 January-31 December 2016 (estimated expenditure)*	*1 January-31 December 2017 (revised budget)*
1. Judicial Office	1 449.5	1 684.2	1 778.9	1 714.1	1 539.6
2. Defence and victims support	462.3	484.1	512.1	457.8	476.0
3. Office of Administration	4 151.5	4 307.7	4 352.5	4 380.8	4 356.2
Total	**6 063.3**	**6 476.0**	**6 643.5**	**6 552.7**	**6 371.8**
Balance brought forward	227.4	144.5	85.0	85.0	–
Pledges and contributions	5 980.4	6 416.5	5 882.5	5 882.5	–
Total	**6 207.8**	**6 561.0**	**5 967.5**	**5 967.5**	–
Surplus/(shortfall)	**144.5**	**85.0**	**(676.0)**	**(585.2)**	**(6 371.8)**

Table A.6.2
Post requirements

Category	*January-December 2014*	*January-December 2015*	*January-December 2016*	*January-December 2017*
Professional and above				
D-1 (judges and Director of Administration)	14	15	15	15
P-5	1	1	1	1
NPO-D	20	21	22	22
NPO-C	19	19	17	16
NPO-B/NPO-A	16	19	19	19
Subtotal	**70**	**75**	**74**	**73**
Other levels				
General Service	110	110	111	110
Subtotal	**110**	**110**	**111**	**110**
Total	**180**	**185**	**185**	**183**

Abbreviation: NPO, National Professional Officer (A, B, C, and D reflect levels within the category).

Table A.6.3
Requirements by object of expenditure and funding availability
(Thousands of United States dollars)

Object of expenditure	*1 January-31 December 2014 (actual)*	*1 January-31 December 2015 (actual)*	*1 January-31 December 2016 (budget)*	*1 January-31 December 2016 (estimated expenditure)*	*1 January-31 December 2017 (revised budget)*
Posts	3 125.2	3 211.9	3 570.2	3 415.0	3 489.2
Non-staff compensation	705.9	902.4	911.0	911.0	749.8
Other staff costs	172.0	243.7	236.7	253.0	269.2
Consultants and experts	136.2	132.0	143.4	143.4	143.4
Travel of staff	55.3	71.4	49.6	57.3	49.4
Contractual services	1 308.2	1 342.8	1 030.3	1 144.5	986.5
General operating expenses	414.7	426.4	490.1	466.8	482.6
Hospitality	24.5	28.5	29.4	29.4	29.4
Premises alteration	52.1	41.7	99.1	99.1	101.1
Training and meetings	69.2	75.1	83.7	33.2	71.1
Subtotal	**6 063.3**	**6 476.0**	**6 643.5**	**6 552.7**	**6 371.8**
Pledges and contributions	5 980.4	6 416.5	5 882.5	5 882.5	–
Balance brought forward	227.4	144.5	85.0	85.0	–
Total	**6 207.8**	**6 561.0**	**5 967.5**	**5 967.5**	–
Surplus/(shortfall)	**144.5**	**85.0**	**(676.0)**	**(585.2)**	**(6 371.8)**